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2 UNITED STATES DISTRICT COURT SOUTHERN  
DISTRICT OF NEW YORK

3 -----X  
4 LAURA POLANCO,

5 PLAINTIFF,

6 -against-

Case No.:  
14-CV-7986(NRB)

7 CITY OF NEW YORK, ADAM GARGIR,  
8 Individually, JOSE SANTORY, Individually,  
HOWARD ROTH, Individually, MICHAEL  
9 CHAVARRIA, Individually, LUIS MARTE,  
Individually, WILLIAM ESPOSITO,  
10 Individually and John and Jane Doe 1  
through 10 Individually, (the names John  
11 and Jane Doe being fictitious, as the true  
names are presently unknowns.

12 DEFENDANTS.

13 -----X

14  
15 DATE: November 28, 2016

16 TIME: 11:20 A.M.

17  
18  
19 EXAMINATION BEFORE TRIAL of the  
20 Defendant, LUIS MARTE, taken by the  
21 Plaintiff, pursuant to a Court Order, held  
22 at the offices of Brett H. Klein, PLLC, 305  
23 Broadway, Suite 607, New York, New York  
24 10007, before Christine Socci, a Notary  
25 Public of the State of New York.

1 L. MARTE

2 Q. Have you ever posted about  
3 interaction with people you arrested?

4 A. No.

5 Q. Are you left- or right-handed?

6 A. I am right-handed.

7 Q. What is your height and weight?

8 A. About 5'11" and 222.

9 Q. How do you describe your race,  
10 complexion and general physical appearance?

11 A. I am a Hispanic male,  
12 light-skinned.

13 Q. Your hair?

14 A. Bald.

15 Q. You have facial hair?

16 A. Yes.

17 Q. Back in 2012, did you weigh  
18 approximately the same amount as you do  
19 today?

20 A. I fluctuate.

21 Q. You are not sure if it was more  
22 or less then?

23 A. It should be around the same  
24 ballpark.

25 Q. Did you wear your hair the same

1 L. MARTE

2 remember?

3 A. Occurring to this, leading up  
4 to this?

5 Q. Correct.

6 A. We came over as -- Officer  
7 Santory came over the air needing a  
8 Spanish-speaking officer in regards to an  
9 accident. I appeared on the scene, it was  
10 a hit and run at the time.

11 Q. Let me stop you real quick.  
12 When you say you appeared at the scene what  
13 location was the scene?

14 A. At that point it was the E.L.  
15 Grant Highway.

16 Q. From what you recall, Santory  
17 requested a Spanish speaking officer to the  
18 E.L. Grant Highway?

19 A. Yes.

20 Q. Do you speak Spanish?

21 A. Yes.

22 Q. Are you fluent?

23 MR. KURUVILLA: In Spanish.

24 A. Yes.

25 Q. Do you recall approximately

1 L. MARTE

2 radio, I drive.

3 Q. Do you know if he went over the  
4 radio?

5 A. I couldn't tell you if he did  
6 or not.

7 Q. Would typically if you were  
8 responding, would you acknowledge you were  
9 responding?

10 MR. KURUVILLA: Objection.

11 A. Yes.

12 Q. Would that be over central.

13 A. Should be.

14 Q. That would be a recorded call?

15 MR. KURUVILLA: Objection.

16 A. Yes.

17 Q. You responded to E.L. Grant  
18 Highway; what do you recall happening  
19 there?

20 A. There was a complainant, there  
21 was -- a vehicle was struck by another  
22 vehicle. The other vehicle fled the scene.  
23 I was translating for Officer Santory?

24 Q. Do you remember what was said?

25 A. The vehicle hit him and took

1 L. MARTE

2 off.

3 Q. Anything else that you recall?

4 A. That's basically it, what  
5 happened at that spot.

6 Q. Did the individual you were  
7 translating for, do you know if he spoke  
8 any English at all?

9 A. Not that I remember.

10 Q. What was Officer Chavarria  
11 doing, if anything?

12 A. He was also there.

13 Q. Did he exit out of the RMP with  
14 you?

15 A. Yes.

16 Q. Does he speak Spanish?

17 A. Yes, he does.

18 Q. You were the one doing the  
19 translating?

20 A. We both were standing there so  
21 either or could have translated.

22 Q. Do you know if you were asking  
23 the complainant questions or were you  
24 literally translating for Santory.

25 A. I was translating for Santory.

1 L. MARTE

2 Q. Other than the minivan was  
3 struck and the person who fled, do you  
4 recall being told anything else?

5 A. That was about it.

6 Q. Do you know how long you were  
7 at E.L. Grant Highway for?

8 A. Approximately a few minutes.

9 Q. What happened next?

10 A. A radio run came over of a  
11 vehicle striking multiple vehicles, another  
12 accident, and they gave a description of  
13 the vehicle as the vehicle that the  
14 gentleman was describing to us.

15 Q. You recall hearing a radio run  
16 that the same vehicle struck other  
17 vehicles?

18 MR. KURUVILLA: Objection.

19 A. Yes.

20 Q. What happened after that?

21 A. Responding to the scene with  
22 the complainant in the back to be able to  
23 identify the vehicle.

24 Q. Do you know; were Santory and  
25 Roth still present with you at the E.L.

1 L. MARTE

2 Q. You described him moving her  
3 away; how does he touch her?

4 A. He grabbed her by the arm and  
5 moved her.

6 Q. He used his hand to grab her  
7 arm and moved her away?

8 A. Yes.

9 Q. How far did he move her?

10 A. Not much, that's when she  
11 turned to hit him.

12 Q. At that point, did you see any  
13 other civilians react?

14 A. Besides the civilians standing  
15 on the corner, no.

16 Q. Did you hear anything else  
17 being said at that point?

18 A. People were screaming, I am not  
19 sure.

20 Q. After you claim the chubby  
21 female kicked Santory in the groin, what  
22 happened?

23 A. Santory reached to grab his  
24 privates, then Officer Roth went to assist  
25 him.

1 L. MARTE

2 Q. He had been at the trunk of the  
3 vehicle?

4 A. Yes.

5 Q. He went to assist?

6 A. Yes.

7 Q. While Officer Santory was  
8 grabbing his privates?

9 A. Yes.

10 Q. What happened when he went to  
11 the assist?

12 A. He tried to grab the chubby  
13 female and at this point a skinny female  
14 appeared.

15 Q. Did you see where she came  
16 from?

17 A. No.

18 Q. Were you still in your vehicle  
19 at this point?

20 A. Yes.

21 Q. Is there any reason you had not  
22 exited to assist?

23 A. No.

24 Q. When the skinny female came  
25 over, what happened next?



1 L. MARTE

2 A. Yes.

3 Q. Did they remain standing when  
4 he grabbed her?

5 A. Yes.

6 Q. At the point the skinny female  
7 came over, what was happening?

8 A. Officer Roth was pulling away  
9 the female from Santory. All of a sudden  
10 the skinny female shows up and Chavarria  
11 stepped out to assist them.

12 Q. When the skinny female showed  
13 up, what did she do?

14 A. She went to grab Officer Roth  
15 and that's when Chavarria stepped out to  
16 assist him. So she could not get physical  
17 at that point.

18 Q. When you said she went to grab  
19 him what indicated she was going to grab  
20 him?

21 A. She was lunging towards him.

22 Q. Did she actually touch him?

23 A. I could not tell you yes or no.

24 Q. When you say lunging?

25 A. She was going towards him. She

1 L. MARTE

2 Q. The skinny female came out  
3 towards Officer Roth from what you saw?

4 A. Yes.

5 Q. Officer Chavarria exited the  
6 vehicle?

7 A. Yes.

8 Q. What did he do?

9 A. Chavarria tried to grab the  
10 skinny female.

11 Q. You are still in the vehicle at  
12 this point?

13 A. Yes.

14 Q. When you say he tried to grab  
15 the skinny female, what did you see?

16 A. I saw he pulled her back and he  
17 tried to help her out with the chubbier  
18 female.

19 Q. Pulled her back and tried to  
20 help who?

21 A. Roth, he was struggling with  
22 her.

23 Q. When he pulled her back, what  
24 did you see?

25 A. He just pulled her to the back

1 L. MARTE

2 and went to help her with the chubby  
3 female.

4 Q. Did the skinny female fall to  
5 the ground?

6 A. No.

7 Q. What happened after he pulled  
8 the skinnier female back; what did she do?

9 A. She was on his back.

10 Q. On whose back?

11 A. Chavarria.

12 Q. You said Officer Chavarria  
13 pulled the skinny female back?

14 A. Yes.

15 Q. He went to --

16 A. Assist Roth.

17 Q. With the chubby female?

18 A. Yes.

19 Q. You said she was on his back?

20 A. Yes.

21 Q. When did that happen?

22 A. Within a second or so.

23 Q. After he pulled her back --

24 A. She went on top of him.

25 Q. She got on top of Chavarria's

1 L. MARTE

2 back?

3 A. Yes.

4 Q. You saw that from your vehicle?

5 A. Yes.

6 Q. What happened after the skinny  
7 female was on Chavarria's back?

8 A. The male started stepping out  
9 of the police vehicle.

10 Q. How did he get out of the  
11 vehicle?

12 A. The door was open.

13 Q. After the second time you are  
14 saying --

15 A. He can't close the door.

16 Q. You have to wait until I  
17 finish.

18 A. Go ahead.

19 Q. After the second time the  
20 chubbier female opened the door, the door  
21 was never closed?

22 A. No.

23 Q. It remained open the whole  
24 time?

25 A. Yes.

1 L. MARTE

2 Q. That individual was handcuffed  
3 still; is that correct?

4 A. Yes.

5 Q. The door remained open and he  
6 stepped out?

7 A. Yes.

8 Q. What happened after that point;  
9 is the skinny female on Chavarria's back?

10 A. Yes.

11 Q. What is Santory doing?

12 A. He is assisting Officer Roth  
13 with the chubbier female.

14 Q. What was she doing at this  
15 point?

16 A. That the point I wasn't paying  
17 attention anymore. I saw the individual,  
18 the male, stepping out of the vehicle so I  
19 went to apprehend him. I stepped out at  
20 that time.

21 Q. The first time you exited your  
22 vehicle was when you saw the male exiting  
23 Santory's vehicle?

24 A. Yes.

25 Q. When he was exiting Santory's

1 L. MARTE

2 vehicle, did you see him do anything.

3 A. When was stepping out of the  
4 vehicle. I got there pretty fast and I  
5 grabbed him.

6 Q. How do you grab him?

7 A. By his arms.

8 Q. Then what happened?

9 A. I was -- I started getting  
10 kicked.

11 Q. Kicked how?

12 A. On my leg.

13 Q. By who?

14 A. The skinnier female.

15 Q. The skinnier female started  
16 kicking you on your leg?

17 A. Yes.

18 Q. This is while you were holding  
19 onto the male?

20 A. Yes.

21 Q. Did you ever see how the skinny  
22 female got out of Officer Chavarria's  
23 vehicle?

24 A. At this point I was dealing  
25 with the male.

1 L. MARTE

2 Q. Is it correct the last time you  
3 observed her she was still on Chavarria's  
4 back?

5 A. Yes.

6 Q. You observed her on Chavarria's  
7 back, you observed the male getting out of  
8 the vehicle and you went to the male?

9 A. Yes.

10 Q. And the skinny individual  
11 started kicking you in your leg?

12 A. Yes.

13 Q. How many times did she kick  
14 you?

15 A. I don't know how many times.  
16 My leg started buckling.

17 Q. Which leg did she kick you in?

18 A. The right leg.

19 Q. Did you see which leg she was  
20 using to kick you?

21 A. At this point I was holding  
22 onto the male so I don't know which leg she  
23 was using.

24 Q. You just felt the kick?

25 A. I felt the kick and I dropped

1 L. MARTE

2 to my knees.

3 Q. How do you know it was the  
4 skinny female who was kicking you?

5 A. Because Officer Santory and  
6 Roth were dealing with the chubby female at  
7 that time.

8 Q. You assumed it was the skinnier  
9 individual because they were dealing with  
10 the chubby individual?

11 A. Yes, I remember her standing  
12 right by my side.

13 Q. Where in your right leg were  
14 they kicking you?

15 A. By my knee.

16 Q. Then you said your knee  
17 buckled?

18 A. Yes.

19 Q. What happened then?

20 A. I fell to the ground.

21 Q. Then what happened?

22 A. I turned and I grabbed the  
23 female down to the ground.

24 Q. After she kicked you in the  
25 knee and you fell to the ground you were



1 L. MARTE

2 able to grab her?

3 A. I turned and grabbed her.

4 Q. Were you on the ground when you  
5 did that?

6 A. Yes.

7 Q. What happened after you turned  
8 and grabbed her?

9 A. I proceeded to try to get her  
10 in handcuffs.

11 Q. Where was the male at this  
12 point?

13 A. I had to let him go and I told  
14 Officer Chavarria to grab him.

15 Q. As you were grabbing the skinny  
16 female you yelled for Chavarria to grab the  
17 male?

18 A. Yes, he started to kick me in  
19 my back.

20 Q. This is while you were grabbing  
21 the skinny female?

22 A. Yes.

23 Q. How many times did he kick you?

24 A. I am not sure, it was a melee  
25 at the time.

1 L. MARTE

2 car. That's basically about it.

3 Q. Did you assist in apprehending  
4 the male at all after the initial  
5 interaction you had with him?

6 A. No, Chavarria had the male at  
7 that time.

8 Q. Did you ever physically have  
9 any contact with the chubbier female?

10 A. No.

11 Q. Is it correct that you had only  
12 contact with the male and skinny female?

13 A. Yes.

14 Q. You initially grabbed the male?

15 A. Yes.

16 Q. You turned your attention to  
17 the skinnier female?

18 A. Yes.

19 Q. Did you use your handcuffs to  
20 handcuff her?

21 A. Yes.

22 Q. Did you assist in handcuffing  
23 anybody other than her?

24 A. No.

25 Q. You were able to handcuff her

1 L. MARTE

2 A. I would not be able to tell you  
3 it was -- Like I said, it was a melee.

4 Q. Do you believe you may have  
5 thrown punches?

6 A. Yes.

7 Q. Are you sure you threw some  
8 punches?

9 A. I am pretty sure I had to.

10 Q. Was that just the skinny female  
11 or did you ever have to throw a punch at  
12 the male?

13 MR. KURUVILLA: Objection.

14 A. I don't remember punching the  
15 male or -- after male -- after I focused on  
16 the skinny female.

17 Q. If you had to throw any punches  
18 it would have been to the skinny female?

19 MR. KURUVILLA: Objection. Go  
20 ahead.

21 A. Yes.

22 Q. You believe you threw punches?

23 A. Yes.

24 Q. Do you know if you made contact  
25 with any of your punches?

1 L. MARTE

2 A. I may have.

3 Q. Do you know what part of the  
4 female's body you may have made contact  
5 with?

6 A. I would not be able to tell  
7 you.

8 Q. Do you remember if you punched  
9 her in the face at any point?

10 A. I may have.

11 Q. Did you ever kick the skinny  
12 female or the male?

13 A. No, I was on the ground.

14 Q. Do you know if you had to  
15 utilize your OC Spray or expandable baton?

16 A. No.

17 Q. Did you ever draw your weapon?

18 A. No.

19 Q. Other than punching and  
20 grabbing, do you recall any other force  
21 that you used?

22 A. No.

23 Q. Did you see Officer Roth throw  
24 any punches?

25 A. At that point I was focusing on

1 L. MARTE

2 A. No.

3 Q. They were just standing there  
4 when you were speaking about your injuries?

5 A. I was talking to the sergeant,  
6 yes.

7 Q. Do you know who processed the  
8 prisoners?

9 A. To my recollection, the arrest  
10 was handed over to Officer Gargir. After  
11 that I don't know if anybody else helped or  
12 assisted.

13 Q. Do you know how it was handed  
14 over to Gargir, how that determination was  
15 made.

16 A. Gargir was --

17 MR. KURUVILLA: Objection.

18 A. Gargir was at the desk and  
19 since he wasn't injured or anything like  
20 that they handed it over to him.

21 Q. Your recollection was he  
22 happened to be there by the desk when you  
23 came in?

24 A. No, he was at the desk, that  
25 was his assignment for the night. He was

1 L. MARTE

2 telephone switchboard operator.

3 Q. He was the telephone  
4 switchboard operator?

5 A. Yes.

6 Q. Since you and your fellow  
7 officer who were involved were injured he  
8 took over the arrest?

9 A. Yes.

10 Q. Did you speak to him, to  
11 Gargir, about what happened?

12 A. Not to my recollection. I  
13 don't remember talking to Gargir.

14 Q. You were aware he was going to  
15 be handling the arrest?

16 A. Yes.

17 Q. You never spoke to him about  
18 what happened to you?

19 A. I can't remember if I did or  
20 not.

21 Q. Typically if you arrested  
22 somebody and you needed to go to the  
23 hospital, would you tell --

24 A. Yes.

25 Q. -- the clerk handling the

1 L. MARTE

2 paperwork what happened?

3 A. Yes.

4 Q. Do you believe you did in this  
5 instance?

6 A. I think I did. I can't  
7 remember if I did or not.

8 Q. Would you want to ensure that  
9 the people who were arrested were charged  
10 with what they actually did?

11 A. Yes.

12 MR. KURUVILLA: Objection.

13 Q. Your testimony is you were  
14 assaulted by Ms. Pimentel?

15 A. Yes -- no.

16 Q. I am sorry, Ms. Polanco.

17 A. Yes.

18 Q. And by Mr. Alcantara?

19 A. Yes.

20 Q. He was also kicking you when  
21 you were on the ground?

22 A. Yes.

23 Q. You are not sure if you told  
24 anybody that?

25 A. I don't remember if I spoke to

1 L. MARTE

2 Gargir. This happened a while back. I am  
3 not sure if I had a full extent of that  
4 conversation with him. I left shortly  
5 after and he was still -- when I got back a  
6 few hours later he was still handling the  
7 paperwork. We briefly talked but I don't  
8 know the full extent to our conversation.

9 Q. You would want to be sure you  
10 told him all the things that happened to  
11 you?

12 MR. KURUVILLA: Objection.

13 A. Like I said we had a brief  
14 conversation. I told him my injuries and  
15 what occurred that's about it. I didn't go  
16 into the full extent details about my  
17 injuries or anything like that. Like I  
18 said, I went to the hospital.

19 Q. Right. You also said when you  
20 got back from the hospital he was still  
21 there doing the paperwork.

22 A. He was doing paperwork so I am  
23 not sure what process or how far he was  
24 into the paperwork.

25 Q. You had an opportunity to speak



1 L. MARTE

2 with him?

3 A. Yes.

4 Q. And to tell him who injured you  
5 and what your injuries were.

6 A. Yes.

7 Q. You would want to be sure to do  
8 that because you were assaulted by these  
9 two individuals?

10 MR. KURUVILLA: Objection.

11 A. Yes.

12 Q. You would want to be sure they  
13 were charged with those crimes?

14 A. Yes.

15 Q. How long do you believe you  
16 were at the precinct at this point before  
17 you went to the hospital?

18 A. 15 minutes about.

19 Q. Other than speaking to the  
20 sergeant at the desk, do you recall doing  
21 anything else while you were there for the  
22 15 minutes?

23 A. I don't remember much else. I  
24 basically went in, spoke to the sergeant,  
25 called for an ambulance for some of us and